

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

---

MARIO FRANCO,

Plaintiff,

v.

5:16-CV-634  
(FJS/TWD)

POLICE OFFICER JOHN GUNSALUS, and  
POLICE OFFICER SHAWN KELLEY,

Defendants,

---

VERDICT FORM

We, the jury, unanimously find as follows:

Liability

A. Defendant John Gunsalus

1. False Arrest

- a. Do you find that Plaintiff has proven by a preponderance of the evidence that Defendant Gunsalus falsely arrested him on July 5, 2014?

  X    
Yes

            
No

2. Use of Excessive Force

- a. Do you find that Plaintiff has proven by a preponderance of the evidence that Defendant Gunsalus, subjected him to the use of excessive force on July 5, 2014?

  X    
Yes

            
No

3. Malicious Prosecution

- a. Do you find that Plaintiff has proven by a preponderance of the evidence that Defendant Gunsalus maliciously prosecuted him?

X  
Yes

\_\_\_\_\_  
No

**Please proceed to Section B addressing Defendant Shawn Kelley's liability.**

**B. Defendant Shawn Kelley**

1. False Arrest

- a. Do you find that Plaintiff has proven by a preponderance of the evidence that Defendant Kelley falsely arrested him on July 5, 2014?

X  
Yes

\_\_\_\_\_  
No

2. Failure to Intervene

*Only answer this question if you answered yes to question A(2)(a).*

- a. Do you find that Plaintiff has proven by a preponderance of the evidence that Defendant Kelley failed to intervene to stop Defendant Gunsalus from using excessive force against Plaintiff on July 5, 2014?

\_\_\_\_\_  
Yes

X  
No

3. Malicious Prosecution

- a. Do you find that Plaintiff has proven by a preponderance of the evidence that Defendant Kelley maliciously prosecuted him?

\_\_\_\_\_  
Yes

X  
No

**Please proceed to the Damages section on the next page.**

**Damages**

**A. Defendant John Gunsalus**

*Only answer this question if you answered yes to any of the above questions regarding Defendant Gunsalus' liability.*

1. Compensatory damages

Do you find that Plaintiff has proven by a preponderance of the evidence that he suffered some actual compensatory damages that were proximately caused by Defendant Gunsalus' actions?

  X    
Yes

\_\_\_\_\_  
No

If your answer is yes, please state the amount of compensatory damages: \$ 5,000.

If your answer is no, please proceed to question A(2).

2. Nominal damages

If you answered no to the previous question, you must award Plaintiff nominal damages. Please state the amount of nominal damages (not in excess of \$1.00): N/A.

**Please proceed to Section B addressing Plaintiff's damages for Defendant Shawn Kelley's actions.**

**B. Defendant Shawn Kelley**

*Only answer this question if you answered yes to any of the above questions regarding Defendant Kelley's liability.*

1. Compensatory damages

Do you find that Plaintiff has proven by a preponderance of the evidence that he suffered some actual compensatory damages that were proximately caused by Defendant Kelley's actions?

\_\_\_\_\_  
Yes

  X    
No

If your answer is yes, please state the amount of compensatory damages: N/A.

If your answer is no, please proceed to question B(2).

2. Nominal damages

If you answered no to the previous question, you must award Plaintiff nominal damages. Please state the amount of nominal damages (not in excess of \$1.00): \$1.00.

**End of the Verdict Form**

*SIGN AND DATE THE VERDICT SHEET AND NOTIFY THE MARSHAL THAT YOU HAVE REACHED A VERDICT.*

Foreperson's signature: 

Date: July 20, 2021

10:45

7-20-2021

CSO JPC Amherst